

MICHIGAN SUPREME COURT



Office of Public Information

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EXTENSION OBTAINED BY REP. DAVE CAMP PLACES STATE IN 'MUCH BETTER POSITION' TO PASS TITLE IV-E REVIEW, AVOID FEDERAL PENALTIES, SAYS CHIEF JUSTICE TAYLOR

LANSING, MI, July 25, 2005 – An extension obtained by U.S. Representative Dave Camp has placed Michigan “in a much better position” to pass a federal review that could otherwise have a serious impact on aid to Michigan foster children and on county budgets, according to a letter sent to Camp by Chief Justice Clifford W. Taylor.

The extension gives state officials an additional year to respond to preliminary findings and meet the criteria for the final review. The state failed the initial review, which was performed in March 2004 by the Department of Health and Human Services Administration of Children and Families (HHS/ACF) in collaboration with the Michigan Department of Human Services. HHS/ACF reviewers found DHS errors with foster care licensing; reviewers also said that some foster children, foster homes and institutions received federal aid for which they were not eligible. Federal auditors also claimed that court orders were incorrectly worded, a finding that is disputed by the State Court Administrative Office (SCAO), the administrative arm of the Michigan Supreme Court.

A second review will determine whether Michigan loses millions of dollars in federal aid for foster children. With Camp’s intercession, the final review is now tentatively scheduled for sometime between January 2007 and March 2007; the review will cover cases that received federal funding from April 1, 2006 to September 30, 2006. The review was originally slated to cover a period of April 1, 2005 through September 30, 2005.

“It was with great gratitude that I learned of your successful efforts to obtain an extension on the Department of Health and Human Services Title IV-E audit of Michigan,” Taylor wrote in a July 13 letter to Camp.

“As you know, the audit placed the state of Michigan at risk of losing millions of dollars in federal aid for children who are abused, neglected or delinquent,” Taylor continued. “The burden of that penalty would fall on Michigan’s 83 counties, which receive Title IV-E funds to cover a substantial portion of the counties’ costs of foster care and other services for eligible children.”

DHS and the Child Welfare Services Division of SCAO have challenged some of the criteria used in the audit, including HHS requirements for wording court orders, Taylor noted. Training for juvenile court judges and staff is part of the state's effort to address preliminary review findings, he indicated.

"Obviously, we had but a short time to accomplish so much, which placed the counties at serious risk for losing much of their Title IV-E funding. With the counties' budgets already strained, the penalty would almost certainly have forced cuts to aid and services for foster children," Taylor wrote. "Now, thanks to your intervention, the State is in a much better position to meet the demands of the audit."

Kathryne A. O'Grady, director of SCAO's Child Welfare Services Division, explained that DHS paid HHS/ACF about \$280,000, based on the initial review's finding that some foster children received federal aid for which they were not eligible.

"That will not be the case if the state fails the final review," O'Grady said. "The penalty, which could be as great as \$37.2 million, will fall on both the state and the counties. The impact on individual counties could be very severe."

For further background on the Title IV-E review, please see the accompanying "Overview of Title IV-E Review."

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OVERVIEW OF TITLE IV-E REVIEW

Kathryne A. O'Grady J.D., Director
Child Welfare Services Division
State Court Administrative Office

- There are approximately 19,000 children in foster care in Michigan.
- The State of Michigan receives approximately \$248 million annually in federal foster care funding through Title IV-E of the Social Security Act.
- The Title IV-E Foster Care Eligibility Review was conducted from March 22-26, 2004 by the Department of Health and Human Services Administration of Children and Families (HHS/ACF), in collaboration with the Michigan Department of Human Services (DHS), formerly known as the Michigan Family Independence Agency (FIA).
- The purpose of the review was to determine whether payments were made under Title IV-E on behalf of eligible children and to eligible homes and institutions during the period of April 1, 2003-September 30, 2003.
- A total of 80 cases (DHS case files) were reviewed. Only eight or fewer cases could contain errors for the state to pass the audit. HHS/ACF found that 12 cases did not conform to federal standards. Accordingly, Michigan failed that audit.
- Eight of the 12 cases are being appealed. The cases include alleged DHS licensing errors and incorrect eligibility determinations, as well as alleged deficient court orders. It is the state's position that all orders complied with the intent of Title IV-E regulations.
- Since Michigan failed the first audit, the State is currently operating under a required Program Improvement Plan, which includes state-wide training, legislative changes, modification to DHS and court policy, and review of cases to transfer from federal to county funding, where appropriate.
- A second review is tentatively scheduled for some time between January-March 2007 and will review 150 DHS cases that are receiving Title IV-E funding from April 1, 2006-September 30, 2006, regardless of when the child was removed from the home. This second review was previously aimed at cases that received funding from April 1, 2005-September 30, 2005. Rep. David Camp obtained an extension.
- If more than 15 cases are found to be non-compliant, a penalty will be assessed equivalent to the rate of error as extrapolated to the entire population of cases receiving Title IV-E funding.

- Using 2004 as an example, with a 15 percent error rate, Michigan will be liable for approximately \$37.2 million. This penalty is exclusive of the \$2.5 million the State could lose if it fails the second Child and Family Services Review scheduled for 2006.
- If a case is found to be ineligible for Title IV-E funding, the net effect is that the approximately 50 percent paid by the federal government transfers to the local government as a child care fund expenditure. Michigan's share of the cost (the other 50 percent) is the same if cases are eligible or ineligible for Title IV-E funding.
- Although DHS paid the amount owed from the 2004 review (approximately \$280,000), this will not be the case for the next review.
- DHS has indicated that each county will be expected to match each federal dollar lost due to IV-E ineligibility, and that each county will also be responsible for its share of the penalties, which will total millions of dollars from the County Child Care Funds.
- The portion to be shared by each county has not yet been determined by DHS, but it is anticipated that the penalty will be based on the percentage of funds provided to each county.
- Wayne County currently accounts for 40 percent of the children in foster care in Michigan. Using a very rough estimate, Wayne County alone could be liable for almost \$7.5 million in penalties.